

1 MR. ALPERT: Yes.

2 JUDGE MILLER: Because three is already used?

3 MR. ALPERT: That is correct.

4 JUDGE MILLER: So you want us to strike that out and  
5 put a little four there.

6 MR. ALPERT: Okay, Your Honor, I'm presenting the  
7 court reporter with an original and one copy.

8 (Whereupon, the document referred to  
9 as Davis Exhibit No. 4 was marked for  
10 identification.)

11 MR. ALPERT: Another exhibit that I'd like to have  
12 marked as Davis Exhibit Number 5.

13 JUDGE MILLER: Five.

14 MR. ALPERT: This is an engineering statement  
15 prepared for ASF Broadcasting, Inc., Shellee F. Davis and Ohio  
16 Radio Associates by the engineering firm of Suffa and Cavell,  
17 Inc. That consists of a two-page statement dated --

18 JUDGE MILLER: All right. The document you've just  
19 described will be marked for identification as Davis Exhibit  
20 Number 4. I mean, 5, 5, I'm sorry. Shellee Davis is 4 and  
21 the engineering statement is 5.

22 (Whereupon, the document referred to  
23 as Davis Exhibit No. 5 was marked  
24 for identification.)

25 JUDGE MILLER: You move them into evidence? Four?

1 MR. ALPERT: I do so move.

2 JUDGE MILLER: Any objection, Mr. Belendiuk?

3 MR. BELENDIUK: Your Honor, I'm trying to get  
4 through this agreement. The only question I have is where it  
5 states how far beyond the one millivolt contour. It may --  
6 quickly.

7 MR. ALPERT: Okay. Well, if I could just walk Your  
8 Honor through the documents. 600 Town Street is identified as  
9 being 32.8 kilometers at a bearing of 202 degrees true. The  
10 one MVM contour is identified in the third paragraph of the  
11 exhibit. It says here the 202.2 degree radial is 31.8  
12 kilometers to the one MVM contour. Thus, 32.8 kilometers if  
13 farther out than 31.8 kilometers -- of the one MVM contour.

14 JUDGE MILLER: By about .5 kilometers.

15 MR. ALPERT: That's correct.

16 MR. BELENDIUK: Okay, that's acceptable.

17 JUDGE MILLER: 31.7 and --

18 MR. ALPERT: Excuse me, Your Honor, that's one  
19 kilometer.

20 MR. BELENDIUK: That's one full kilometer.

21 JUDGE MILLER: One full kilometer?

22 MR. ALPERT: 32.8 and 31.8 is 1 full kilometer. All  
23 right, the distance to the --

24 JUDGE MILLER: Oh, I see. Okay, okay.

25 MR. ALPERT: The 32.8, the distance to the contour

1 is 31.8. Therefore, it's one kilometer outside.

2 JUDGE MILLER: Right, one kilometer.

3 MR. ALPERT: Now, in the case of the 1000 Urlin  
4 Avenue, that's covered in the third paragraph from the top of  
5 the exhibit. The distance to that location is 33.8 kilometers  
6 -- 212.4 degrees true radial. The distance to that radial,  
7 however, is only 32.4 kilometers. So in that case, it is 1.4  
8 kilometers outside the 1 MVM contour.

9 JUDGE MILLER: All right. You see that, Mr.  
10 Belendiuk?

11 MR. BELENDIUK: Yes. And with that statement, I  
12 have no objection to the exhibits.

13 JUDGE MILLER: All right. Anybody else want to be  
14 heard on these two exhibits? Davis Exhibit 4 is received,  
15 Davis Exhibit 5 is received. There'll be no need for, for you  
16 to make a rebuttal request.

17 (Whereupon, the documents referred to  
18 as Davis Exhibit Nos. 4 and 5 were  
19 received into evidence.)

20 MR. ALPERT: Your Honor, one other matter which I  
21 think is worth taking up at this time --

22 JUDGE MILLER: Well, let's just see if -- We'll go  
23 around -- I'm going to go around. Do you have anything  
24 further in preliminary matters?

25 MR. BELENDIUK: No, Your Honor.

1 JUDGE MILLER: Mr. Yelverton?

2 MR. YELVERTON: Your Honor, I have nothing  
3 substantive. I did have a question. You identified testimony  
4 of Shellee F. Davis on this matter as Davis Exhibit 4. What  
5 was handed to me had marked as Davis Exhibit 3.

6 JUDGE MILLER: I know.

7 MR. YELVERTON: Okay. So I just wanted to make sure

8 -- JUDGE MILLER: Cross that out and put a little 4.

9 MR. YELVERTON: Okay. And then also, just to  
10 clarify for the record, Mr. Belendiuk said they were  
11 withdrawing their claim of local residence within the proposed  
12 service area. That's just to Urlin Avenue and Town Street  
13 and, and nothing as to your current residence?

14 JUDGE MILLER: All right. Anything further,  
15 Mr. Yelverton?

16 MR. YELVERTON: No, no, Your Honor.

17 JUDGE MILLER: Mr. Kravetz?

18 MR. KRAVETZ: No, Your Honor.

19 JUDGE MILLER: Mr. Koerner?

20 MR. KOERNER: No, Your Honor.

21 JUDGE MILLER: Mr. Alpert?

22 MR. ALPERT: Yes, Your Honor. As to that last point  
23 that Mr. Yelverton was pointing -- was touching on, right now  
24 Mr. Ringer, as stated in Exhibit 2, page 1, of his testimony,  
25 states that from April 1992 to the present he lived at -- he

1 has lived within 417 West 6th Avenue in Columbus, Ohio. I do  
2 not contest that that location is within the one MVM contour.  
3 But, however, with the elimination of his two prior  
4 residences, that means that it's impermissible -- upgrade.

5 JUDGE MILLER: Please write, write me a finding.

6 MR. ALPERT: Okay. I was just going to suggest that  
7 be stricken, but I'll be happy to write you a finding.

8 JUDGE MILLER: No, just write me a finding.

9 MR. ALPERT: Okay.

10 JUDGE MILLER: All right. Mr. Koerner, I didn't ask  
11 you the magic question. Have you completed your phase 1  
12 presentation?

13 MR. KOERNER: Oh, yes, Your Honor.

14 JUDGE MILLER: All right. Mr. Kravetz, we now will  
15 proceed with your witnesses.

16 MR. KRAVETZ: Your Honor, I would request that  
17 Mr. Charles Wilburn take the stand and Bernard Wilburn leave  
18 the room.

19 JUDGE MILLER: All right, Mr. Charles Wilburn is  
20 taking the stand. Raise your right hand, sir.  
21 Whereupon,

22 MR. CHARLES W. WILBURN  
23 having first been duly sworn, was called as a witness herein  
24 and was examined and testified as follows:

25 JUDGE MILLER: Have a seat.

## DIRECT EXAMINATION

BY MR. KRAVETZ:

Q Mr. Wilburn, would you state your complete name and address for the record?

A Charles W. Wilburn, 3324 Westbury Drive, Columbus, Ohio 43221.

Q And you're a voting shareholder in Wilburn Industries, Inc.?

A I am.

Q And will you give me your date of birth?

A April 23rd, 1929.

MR. KRAVETZ: Your Honor, Mr. Wilburn is available for cross examination.

JUDGE MILLER: All right. Mr. Koerner the lead-off man?

MR. KOERNER: Yes, Your Honor.

JUDGE MILLER: Proceed, Mr. Koerner.

## CROSS EXAMINATION

BY MR. KOERNER:

Q Okay, Mr. Wilburn, you just stated an address in Columbus, Ohio. If I can direct your attention to Exhibit -- Wilburn Exhibit 2, the first page, third paragraph, that had a residence in Upper Arlington, Ohio.

A That's correct.

Q Is Upper Arlington the same as Columbus?

1           A     No, it is not. Upper Arlington is a city of 40,000  
2 which is adjacent to Columbus. It's a suburb of Columbus, but  
3 it has a Columbus post office mailing address. So my address  
4 is Columbus, Ohio.

5           Q     But your residence is in Upper Arlington?

6           A     Upper Arlington, that's correct.

7           Q     Thank you. Mr. Wilburn, you are the president,  
8 secretary, treasurer, sole director, and sole voting  
9 shareholder of Wilburn Industries?

10          A     That's correct.

11          Q     When was Wilburn Industries organized?

12          A     It was incorporated on December 27, 1991.

13          Q     And for what purpose?

14          A     For the sole purpose of holding a license to this  
15 radio station if in fact that were issued to it.

16          Q     Mr. --

17                JUDGE MILLER: It was formed for that purpose or any  
18 other purpose, wasn't it?

19                WITNESS: Well, it's -- I used a general  
20 incorporation clause. It could do anything, not perfect --

21                JUDGE MILLER: If you and your son decided to buy a  
22 series of laundromats --

23                WITNESS: It could be done.

24                JUDGE MILLER: -- it could be done under Wilburn  
25 Enterprises?

1           WITNESS: That's right. But the way I understood  
2 the question, he said why did you incorporate, and that's the  
3 reason I incorporated.

4           JUDGE MILLER: Okay. And -- But, but by -- Did you  
5 form the corporation with the idea of going into multiple  
6 ventures?

7           WITNESS: No.

8           JUDGE MILLER: You did not?

9           WITNESS: No.

10          JUDGE MILLER: All right, let me ask a few questions  
11 of this man. You were born in 1929.

12          WITNESS: That's correct.

13          JUDGE MILLER: When did you graduate from law  
14 school?

15          WITNESS: I actually graduated in December 1963 from  
16 Ohio State University Law School. I was called an  
17 accelerator. In other words, I went straight through without  
18 taking breaks. I'm considered a graduate of the Class of 1964  
19 because of that.

20          JUDGE MILLER: 1964. Moving along. Tell me a  
21 little bit about your career from 1964 on.

22          WITNESS: I have been a practicing attorney in  
23 Circleville, Ohio, the entire time.

24          JUDGE MILLER: Circleville, Ohio?

25          WITNESS: That's correct.



1 JUDGE MILLER: Since 1964?

2 WITNESS: Yes. Since May.

3 JUDGE MILLER: And I take it for, for many years it  
4 was just Wilburn and not Wilburn Industries?

5 WITNESS: No. As a matter of fact, when I started  
6 practice it was called Christ, Davis and Weldon. Christ,  
7 Davis and Weldon are deceased and that left Wilburn. At one  
8 point in time -- Well, I believe after Christ and Davis died  
9 we changed the name to Weldon and Wilburn. Then he died,  
10 Mr. Weldon died in 1981. We kept the name. My son Bernard  
11 joined me when he graduated from law school in 1984.

12 JUDGE MILLER: 1984. Twenty years after you had  
13 started in your practice.

14 WITNESS: That's correct.

15 JUDGE MILLER: And do you specialize or are you a  
16 general practice?

17 WITNESS: It's a general practice.

18 JUDGE MILLER: While you have been in general  
19 practice, have you also -- See, I come from a small town.  
20 Have you also engaged in other entrepreneurial adventures?

21 WITNESS: No.

22 JUDGE MILLER: There's a very good friend of mine  
23 who lives in my home town, also owns coal mines.

24 WITNESS: No.

25 JUDGE MILLER: You don't --

1 WITNESS: No coal mines. No.

2 JUDGE MILLER: Always, always --

3 WITNESS: I have been a lawyer, that's correct.

4 JUDGE MILLER: All right. Are you a trial lawyer or  
5 do you consider yourself --

6 WITNESS: I've done it. I don't consider myself an  
7 expert in any field.

8 JUDGE MILLER: Okay.

9 WITNESS: In a small town, you do --

10 JUDGE MILLER: I, I understand that. Are you  
11 particularly busy in income tax season, for example?

12 WITNESS: Not particularly. We only do taxes for  
13 our regular clients. We do not solicit that kind of business.

14 JUDGE MILLER: All right. Now, just with that  
15 background, a man who's been in practice for 20 years --

16 WITNESS: Twenty-nine years.

17 JUDGE MILLER: -- 29 years in Circleville, you're  
18 going to give up that practice?

19 WITNESS: Well, Bernard will assume the practice.  
20 That was the intent from the day he walked in the office and  
21 --

22 JUDGE MILLER: Your son will assume the practice.  
23 Will it still be Wilburn and Wilburn?

24 WITNESS: We'll probably not change the name. It  
25 will continue to be Weldon and Wilburn probably.

1 JUDGE MILLER: All right. Proceed, Mr. Koerner.

2 BY MR. KOERNER:

3 Q All right. Let me just follow along lines that  
4 Judge Miller has begun. What is your normal work week at the  
5 present time?

6 A Our normal hours are 9 to 4:30. That's the office  
7 hours we maintain. It usually is -- For me, it is usually  
8 longer than that.

9 Q And approximately what would your personal hours be?

10 A Probably eight hours a day, approximately, in the  
11 office.

12 Q And your compensation from the law practice --  
13 First, let me ask this. Is this a, a partnership?

14 A As far as income is concerned, yes, it is.

15 JUDGE MILLER: Would you explain that to me?

16 WITNESS: Well, the building in which we're located,  
17 I own a half interest in that which I acquired from my former  
18 partner. I own almost all the assets that are in the office.  
19 As far as what has been purchased since Bernard has become a  
20 partner, I would consider them half. The majority of it's  
21 mine.

22 JUDGE MILLER: All right. So what you're saying is  
23 the profits are divided 50/50, but you have certain personal  
24 and real property that is specifically yours?

25 WITNESS: That's correct.

1 JUDGE MILLER: Is that, is that --

2 WITNESS: That's correct.

3 JUDGE MILLER: Okay. Go ahead.

4 MR. KOERNER: Thank you, Your Honor.

5 BY MR. KOERNER:

6 Q Mr. Wilburn, would it be fair to say that you being  
7 some, some years older than your son and having been in  
8 practice longer than the actual fees generated in the office  
9 primarily from your clients and/or your efforts?

10 A Could you repeat the question? I'm not sure I  
11 followed you.

12 Q Yes. Since you have been in practice longer, would  
13 it be a fair statement to say that the fees which Weldon and  
14 Wilburn receive from clients are primarily the result of your  
15 efforts?

16 A Not at this point in time.

17 Q Do you have any other attorneys in your office?

18 A No.

19 Q Any paralegals?

20 A No.

21 Q What other support staff do you have?

22 A We have one person, the secretary.

23 Q Any bookkeepers?

24 A No.

25 Q How did you first learn that this particular

1 frequency is available?

2 A I read it in an article in the newspaper called the  
3 Suburban News Service. There are about 21 suburbs around  
4 Columbus, each has its paper. I think they're all owned by  
5 the same corporation. And this was the Upper Arlington News  
6 and I read it in that paper.

7 Q And did that article indicate how applications could  
8 be filed?

9 A Yes. And gave a time.

10 Q The newspaper article gave a time?

11 A I beg your pardon?

12 Q The newspaper article gave a time?

13 A Yes, it gave the time. I believe it was from  
14 December 1 through December 30, 1991.

15 Q Did it indicate what kind of application was  
16 required?

17 A I think it gave a form number, and that's as far as  
18 I remember.

19 Q And what did you do after you read this article in  
20 terms of proceeding along this path?

21 A I thought about it for about two weeks and didn't  
22 mention it to anyone. I had been long thinking of leaving the  
23 law practice, which was my intent, as I said before, when  
24 Bernard came in. And after about two weeks, I decided that I  
25 was going to, as Ms. Frizzell says, go for it. And so I

1 mentioned it to Bernard and asked him if he would like to  
2 participate.

3 Q And what was his response?

4 A He said yes, I will.

5 Q All right. So what was the next step you took then?

6 A We acquired the form and I, I think we got it from  
7 the downtown copy center around here or someplace. That was  
8 the next step we took. And then I think Bernard was going to  
9 be out of town for a while, so -- because he was visiting in-  
10 laws in Virginia. And I then made arrangements to go visit  
11 the station and visit Ms. Frizzell.

12 Q All right. And -- All right, when you visited the  
13 station and Ms. Frizzell, did you disclose why you were  
14 visiting the station?

15 A Yes. I, I called her and told her what my interest  
16 was. I wanted to find out more about it and, and she said I  
17 could come up and talk to her.

18 Q Now, at the point in time when you acquired a copy  
19 of -- a blank copy of the FCC application, had you had any  
20 prior experience in filing applications with the FCC?

21 A None.

22 Q Had your son?

23 A No.

24 Q Had any of your -- Strike that, please. At that  
25 point, did you have FCC counsel?

1 A No.

2 Q So you acquired the form and I assume read it  
3 through. Is that correct?

4 JUDGE MILLER: Is the answer yes?

5 WITNESS: Yes.

6 BY MR. KOERNER:

7 Q At that -- Approximately, can you tell me what date  
8 that was?

9 A I don't remember the date we acquired the form. I  
10 do remember that I went to the studios of the radio station on  
11 December 24 of 1991 to see Ms. Frizzell.

12 Q That was Christmas Eve?

13 A Well, it was the morning of that day, yes.

14 Q All right. Had you acquired the form by that time?

15 A I believe we had, to my recollection.

16 Q Had you read it by that time?

17 A I'm sorry?

18 Q Had you read the form by that time?

19 A I don't remember.

20 Q All right. So you, you made the decision that you  
21 and your son were going to apply for this facility?

22 A That's correct.

23 Q Did there come a time when you sat down --

24 JUDGE MILLER: Was it always understood that it was  
25 yours? I mean, you were going to be this -- You were moving

1 out of the law practice, he was to stay there. He was in  
2 harmony with what, with what your plans were?

3 WITNESS: Well, in, in the beginning, I thought we  
4 would, we would share the management. That was changed. It  
5 was always that we would share in the financial contributions.

6 JUDGE MILLER: Yeah, the -- I understand that, but  
7 at the beginning you also thought you were going to share  
8 management duties?

9 WITNESS: Yes.

10 JUDGE MILLER: And there came a time when that  
11 changed?

12 WITNESS: We amended, yes.

13 JUDGE MILLER: When was that?

14 WITNESS: In January of 1992.

15 JUDGE MILLER: So in this period of about a month,  
16 late December to January, you decided that you would be the  
17 manager?

18 WITNESS: That's correct.

19 JUDGE MILLER: And he would not be?

20 WITNESS: He would not be.

21 JUDGE MILLER: By that time, had you committed  
22 yourselves to a 50/50 ownership split?

23 WITNESS: That never changed. We, we had always  
24 agreed on that.

25 JUDGE MILLER: Now, as one lawyer to another lawyer,



1 I doubt if your son would have even had to be here if this  
2 would have been 51/49. Do you understand what I'm saying to  
3 you?

4 WITNESS: Yes, but that's not the way I wanted it,  
5 so --

6 JUDGE MILLER: You wanted it 50/50?

7 WITNESS: I wanted him to share equally, that's  
8 right.

9 JUDGE MILLER: All right. Proceed, Mr. Koerner.

10 MR. KOERNER: Thank you, Your Honor.

11 BY MR. KOERNER:

12 Q Did there then come a point after you visited the  
13 radio station on December 24 that you completed the FCC  
14 application?

15 A The, the week between Christmas and December 30th,  
16 yes. Bernard and I completed that together.

17 Q And what was the process of doing that?

18 A The process was filling in the blanks with the  
19 typewriter. There were some blanks that we had to do some  
20 other inquiries about to gain information.

21 Q And what lines would those have been?

22 A The, the matter of the finances that would be  
23 required, the engineering data.

24 Q Okay. Let's take these one at a time. With respect  
25 to the finances required, from whom did you seek information

1 about that?

2 A Ardeth Frizzell.

3 Q And what was the basis for seeking information from  
4 her?

5 A I needed to know what it would cost to run the  
6 station before I could ever commit to going into it, and I  
7 thought the best way to find out is to go to someone who is  
8 running it. So I went to see Ms. Frizzell.

9 Q And did she give you the information?

10 A She gave me information as to the cost of running  
11 it. She did not give me the information as to the revenue.

12 Q Did you ask to see any documentation as to the cost  
13 of running it?

14 A Yes, and she did not feel free to give it out. She  
15 told me verbally that she didn't give it out.

16 Q Did she say why she didn't feel free to give it?

17 A Well, she wasn't the owner of the station and that's  
18 all -- I think she felt that she was not free to give that  
19 out.

20 Q Did she suggest you contact the owner of the station  
21 for it?

22 A I don't remember whether she did or didn't. I did  
23 wind up contacting the owner, however.

24 Q You asked him for the information?

25 A I called him later.

1 Q And did he supply it?

2 A No. He indicated he would, but never sent it.

3 Q Did he ever -- Did you ever speak face-to-face with  
4 him? Or, I'm sorry, speak personally with him?

5 A No.

6 JUDGE MILLER: Now, let's --

7 WITNESS: By telephone.

8 JUDGE MILLER: -- indicate who we're talking about.

9 WITNESS: The owner of WBBY.

10 JUDGE MILLER: Yeah. That's -- Put a name on it.

11 WITNESS: Mr. Carl Nourse. That's, that's who I  
12 called and he did not respond --

13 JUDGE MILLER: Okay, fine.

14 WITNESS: -- by giving the information.

15 JUDGE MILLER: I just want to make sure that  
16 everybody's talking about the same person.

17 BY MR. KOERNER:

18 Q Okay. You indicated the other portion of the  
19 application form that you had questions about dealt with  
20 engineering, technical. And from whom did you seek  
21 information concerning that?

22 A Again, Ms. Frizzell said that all the information  
23 was available at the studio. I did not have time to obtain  
24 it, so Bernard went there a few days later and got that  
25 information.

1 Q And what was -- If you know, what was the process by  
2 which he obtained the information?

3 A I think he Xeroxed some copies of whatever was  
4 available on hand.

5 JUDGE MILLER: At the time you talked with  
6 Ms. Frizzell, did she tell you that she was applying?

7 WITNESS: No. I don't believe she did. Or if she  
8 did, I forgot it.

9 JUDGE MILLER: Okay.

10 BY MR. KOERNER:

11 Q If you know, your, your son went to the studio, took  
12 some information out of the Public Inspection file, Xeroxed  
13 it, and brought it back to you?

14 A Yes.

15 Q Did you make any attempt to determine whether that  
16 information was accurate?

17 A After I spoke with Ms. Frizzell on December 24th,  
18 she gave me the name of their engineer, John Mckinley, and I  
19 started calling him and got an answering machine, and I left  
20 messages. He, however, did not return the calls until after  
21 December 30. So we used the information from the files of  
22 WBBY, their engineering data. We did not consult with any  
23 engineer at that time.

24 Q Okay. And did you identify who John McKinley was?

25 A He was the engineer for WBBY before it went off the

1 air. And, and then we later employed him ourselves as a  
2 consultant. At least I know he worked for WBBY. I don't know  
3 that he was employed at the time it went off the air or not,  
4 but both Ms. Frizzell and he told me that he had been employed  
5 by WBBY.

6 Q Okay. Now, Mr. Wilburn, at the time the application  
7 was filed with the FCC, the initial application, is it not a  
8 fact that it was missing the model Equal Employment  
9 Opportunity program?

10 A I believe that's correct.

11 Q Was it later amended to include that program?

12 A Yes, it was.

13 Q And can you tell me why the initial filing did not  
14 include it?

15 A We were not certain as to how to complete that. We  
16 had -- By we, I mean Bernard and myself. We did obtain copies  
17 of regulations, determined that this could be amended, and  
18 decided that we would file without that and amend it later.

19 Q When you say you obtained copies of regulations, do  
20 you mean FCC regulations?

21 A FCC regulations, yes.

22 Q And, and you determined that you could supply this  
23 at some later date?

24 A That was my understanding, yes.

25 Q Did you have any understanding as to the extent to

1 | which you could amend at some later date?

2 |       A     All I can tell you is that from the regulations we  
3 | determined there were certain things that could be amended,  
4 | certain things could not be, and I cannot tell you which is  
5 | which. I don't know at this time.

6 |       Q     Was it your understanding that supplying this Equal  
7 | Employment Opportunity program was one that could be?

8 |       A     Was, yes, an acceptable amendment. Yes.

9 |       Q     Okay. Now, in the application as initially filed, I  
10 | believe you previously testified in response to questions from  
11 | the judge that you and Bernard were going to share management  
12 | responsibilities?

13 |       A     Yes.

14 |       Q     And how were they to be shared?

15 |       A     Fifty/fifty.

16 |       Q     Well, does that mean like you would be general  
17 | manager 50 percent of the time and he would be 50 percent of  
18 | the time?

19 |       A     Well, I, I think our first impression was that we  
20 | would share the job, yes.

21 |       Q     Was it your intention at that point to continue your  
22 | law practice as well?

23 |       A     For Bernard, yes. For me, not necessarily.

24 |             JUDGE MILLER: Well, let me, let me -- You're going  
25 | to go 50/50.

1 WITNESS: That was our original plan.

2 JUDGE MILLER: Original plan.

3 WITNESS: Yes.

4 JUDGE MILLER: Now, if you're not going to, if  
5 you're not going to -- if you're going to drop out of the  
6 practice, law practice, that leaves, that leaves your son with  
7 150, doesn't it?

8 WITNESS: It would have. If he had not hired  
9 additional help, yes.

10 JUDGE MILLER: Yeah. In other words, if you dropped  
11 out of the law practice --

12 WITNESS: He would have to hire --

13 JUDGE MILLER: -- he would have 50 percent of it?

14 WITNESS: He would have to hire help. He would have  
15 had to. Put it in that tense because it did not come to pass.

16 JUDGE MILLER: Right. Right. But I'm -- What I'm  
17 trying to establish is you stated that was of the time you  
18 were still thinking about this 50/50 plan. Okay, go ahead,  
19 Mr. Koerner.

20 MR. KOERNER: Thank you, Your Honor. Your Honor,  
21 may I approach the witness, please?

22 JUDGE MILLER: You may approach the witness. For  
23 what purpose?

24 MR. KOERNER: I would like to show the witness a  
25 copy of the application as originally filed with the Federal

1 Communications Commission.

2 JUDGE MILLER: Let the record reflect -- Well, why  
3 don't you show Mr., Mr. Kravetz so he can --

4 MR. KRAVETZ: Is there any particular page that  
5 you'd like me to take a look at?

6 MR. KOERNER: Yes. I'm showing counsel --

7 JUDGE MILLER: Probably the signature page, among  
8 other things.

9 MR. KOERNER: Your Honor, I am placing before the  
10 witness a copy of FCC Form 301, Application for Construction  
11 Permit. The Mellon Bank date on it is, I believe, December  
12 30, 1991. Ask the witness with respect to page 25 of FCC Form  
13 301 --

14 MR. ALPERT: Mr. Koerner, keep your voice up,  
15 please.

16 BY MR. KOERNER:

17 Q Is that your signature on page 25 of Form 301?

18 A It's a copy of it.

19 JUDGE MILLER: Take a look and just look at that  
20 generally. Is this, is this the application that you've been  
21 referring to?

22 WITNESS: It appears to be a copy of it.

23 JUDGE MILLER: And did you prepare that? Did you  
24 prepare the answers and --

25 WITNESS: With my son, yes, together.



1 JUDGE MILLER: With, with your son.

2 WITNESS: Yes.

3 JUDGE MILLER: Okay. Now --

4 WITNESS: Yes, we did.

5 JUDGE MILLER: Now, what page you on at?

6 MR. KOERNER: Exhibit 4, please, which is entitled  
7 "Exhibit 4, Section 4B, Integration Statement."

8 BY MR. KOERNER:

9 Q I would ask you to take a look at that.

10 A Okay.

11 Q All right, does that, that exhibit indicate that as  
12 of the time you signed the application what your proposed  
13 position at the station would be?

14 A It says here "Charles W. Wilburn proposes to hold  
15 the position of assistant to the public service director."

16 Q And does it indicate on that exhibit what position  
17 your son would hold?

18 A It says "Bernard P. Wilburn intends to hold the  
19 position of assistant programming director."

20 Q All right. Now, Mr. Wilburn, was it your intention  
21 at that time to have somebody in full-time employment as  
22 station manager, general manager?

23 A Well, as I said, I think that Bernard and I talked  
24 about sharing that position and had not yet determined that  
25 that would be a paid salaried position.